

their damages claims will be far from identical. The extent and significance of these differences will become more apparent over the course of discovery.

There is no cost to simply wait until the close of discovery to decide whether there should be one or two trials. Discovery will proceed on a consolidated basis in either event. There is precedent for deferring the issue of trial consolidation until after the close of discovery. For example, in 2018, four plaintiffs filed four separate lawsuits arising from the plaintiffs' wrongful convictions for a Marquette Park double homicide, *Ezell v. City of Chicago*, No. 18 cv 1049; *Johnson v. Cassidy*, no 18 cv 1062; *Styles v. City of Chicago*, No. 18 cv 1053; and *McCoy v. City of Chicago*, No. 18 cv 1063. Early in the litigation, on May 16, 2018, Judge Kendall ordered that the four cases be consolidated for purposes of discovery and filing dispositive motions. *See* 5/16/18 Order, ECF No. 39 on the *Ezell* docket (Ex. A hereto). It was not until April 2022—nearly four years later and after the close of fact discovery—that Judge Kendall, after receiving briefs on the issue and hearing argument from the parties, consolidated the cases for all purposes, including trial. *See* 4/6/22 Order, ECF No. 317 on the *Ezell* docket (Ex. B hereto).

Judge Kendall's sensible approach should be applied here. This case and *Kwil* can be consolidated now for discovery purposes, achieving every possible efficiency. The question of consolidation can be addressed later when there is a fuller record.

CONCLUSION

For the foregoing reasons, this Court should enter an order denying the Defendants' motion to consolidate this case and *Kwil* only to the extent that motion seeks consolidation of the cases for purposes of trial.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I, Locke E. Bowman, an attorney, hereby certify that on September 8, 2023, I caused the foregoing motion to be filed using the Court's CM/ECF system, which effected service on all counsel of record.

/s/ Locke E. Bowman
One of Plaintiff's Attorneys